



APPENDIX—1
NATIONAL LABOR RELATIONS ACT

Sec. 1.

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It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, for the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection.

Sec. 2. When used in this Act—

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(3) The term "employee" shall include any employee . . . and shall include any individual whose work has ceased as a consequence of, or in connection with, any current labor dispute or because of any unfair labor practice . . .

(4) The term "representatives" includes any individual or labor organization.

(5) The term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work.

(6) The term "commerce" means trade, traffic, commerce, transportation, or communication among the several States, or between the District of Columbia or any Territory of the United States and any State or other Terri-

tory, or between any foreign country and any States, Territory, or the District of Columbia, or within the District of Columbia or any Territory, or between points in the same State but through any other State or any Territory or the District of Columbia or any foreign country.

(7) The term "affecting commerce" means in commerce, or burdening or obstructing commerce or the free flow of commerce, or having led or tending to lead to a labor dispute burdening or obstructing commerce or the free flow of commerce.

(8) The term "unfair labor practice" means any unfair labor practice listed in Section 8.

(9) The term "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

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Sec. 7. Employees shall have the right to self-organization, to form, join, or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection.

Sec. 8. It shall be an unfair labor practice for an employer—

(1) To interfere with, restrain, or coerce employees in the exercise of the rights guarantee in Section 7.

(2) To dominate or interfere with the formation or administration of any labor organization or contribute financial or other support to it: Provided, That subject to rules

and regulations made and published by the Board pursuant to Section 6(a), an employer shall not be prohibited from permitting employees to confer with him during working hours without loss of time or pay.

(3) By discrimination in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; *Provided:* That nothing in this Act, or in the National Industrial Recovery Act (U.S.C., Supp. VII, title 15, secs. 701-712), as amended from time to time, or in any code or agreement approved or prescribed thereunder, or in any other statute of the United States, shall preclude an employer from making an agreement with a labor organization (not established, maintained, or assisted by any action defined in this Act as an unfair labor practice) to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in section 9(a), in the appropriate collective bargaining unit covered by such agreement when made.

(4) To discharge or otherwise discriminate against an employee because he has filed charges or given testimony under this Act.

(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9(a).

Sec. 9. (a) Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all the employees in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment: *Provided,* That any individual employee or a group of employees shall have the right at any time to present grievances to their employer.

(b) The Board shall decide in each case whether, in order to insure to employees the full benefit of their right to self-organization and to collective bargaining, and otherwise to effectuate the policies of this Act, the unit appropriate for the purposes of collective bargaining shall be the employer unit, craft, unit, plant unit, or subdivision thereof.

(c) Whenever a question affecting commerce arises concerning the representation of employees, the Board may investigate such controversy and certify to the parties, in writing, the name or names of the representatives that have been designated or selected. In any such investigation, the Board shall provide for an appropriate hearing upon due notice, either in conjunction with a proceeding under Section 10 or otherwise, and may take a secret ballot of employees, or utilize any other suitable method to ascertain such representatives.

Section 10 (a) The Board is empowered, as hereinafter provided, to prevent any person from engaging in any unfair labor practice (listed in section 8) affecting commerce. This power shall be exclusive, and shall not be affected by any other means of adjustment or prevention that has been or may be established by agreement, code, law, or otherwise.

(b) Whenever it is charged that any person has engaged in or is engaging in any such unfair labor practice, the Board, or any agent or agency designated by the Board for such purposes, shall have power to issue and cause to be served upon such person a complaint stating the charges in that respect, and containing a notice of hearing before the Board or a member thereof, or before a designated agent or agency, at a place therein fixed, not less than five days after the serving of said complaint. Any such complaint may be amended by the member, agent, or agency conducting the hearing or the Board in its discretion at any time prior to the

issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint and to appear in person or otherwise and give testimony at the place and time fixed in the complaint. In the discretion of the member, agent or agency conducting the hearing or the Board, any other person may be allowed to intervene in the said proceeding and to present testimony. In any such proceeding the rules of evidence prevailing in courts of law or equity shall not be controlling.

(c) The testimony taken by such member, agent, or agency of the Board shall be reduced to writing and filed with the Board. Thereafter, in its discretion, the Board upon notice may take further testimony or hear argument. If upon all the testimony taken the Board shall be of the opinion that any person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue and cause to be served on such person an order requiring such person to cease and desist from such unfair labor practice, and to take such affirmative action, including reinstatement of employees with or without back pay, as will effectuate the policies of this Act. Such order may further require such person to make reports from time to time showing the extent to which it has complied with the order. If upon all the testimony taken the Board shall be of the opinion that no person named in the complaint has engaged in or is engaging in any such unfair labor practice, then the Board shall state its findings of fact and shall issue an order dismissing the said complaint.

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(e) The Board shall have power to petition any circuit court of appeals of the United States (including the Court of Appeals of the District of Columbia), or if all the circuit courts of appeal to which application may be made are in vacation, any district court of the United States (in-

cluding the Supreme Court of the District of Columbia), within any circuit or district, respectively, wherein the unfair labor practice in question occurred or wherein such person resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was entered and the findings and order of the Board. Upon such filing, the court shall cause notice thereof to be served upon such person, and therefrom shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board. No objection that has not been urged before the Board, its member, agent or agency, shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Board as to the facts, if supported by evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Board, its member, agent, or agency, the court may order such additional evidence to be taken before the Board, its member, agent, or agency, and to be made a part of the transcript. The Board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file such modified or new findings, which, if supported by evidence shall be conclusive, and shall file its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the

court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the appropriate circuit court of appeals if application was made to the district court as hereinabove provided, and by the Supreme Court of the United States upon writ of certiorari or certification as provided in Sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347).

(f) Any person aggrieved by a final order of the Board granting or denying in whole or in part the relief sought may obtain a review of such order in any circuit court of appeals of the United States in the circuit wherein the unfair labor practice in question was alleged to have been engaged in or wherein such person resides or transacts business, or in the Court of Appeals of the District of Columbia, by filing in such court a written petition praying that the order of the Board be modified or set aside. A copy of such petition shall be forthwith served upon the Board, and thereupon the aggrieved party shall file in the court a transcript of the entire record in the proceeding, certified by the Board, including the pleading and testimony upon which the order complained of was entered and the findings and order of the Board. Upon such filing, the court shall proceed in the same manner as in the case of an application by the Board under subsection (e), and shall have the same exclusive jurisdiction to grant to the Board such temporary relief or restraining order as it deems just and proper, and in like manner to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part the order of the Board; and the findings of the Board as to the facts, if supported by evidence, shall in like manner be conclusive.

(g) The commencement of proceedings under subsection (e) or (f) of this section shall not, unless specifically ordered by the court, operate as a stay of the Board's order.

(h) When granting appropriate temporary relief or a restraining order, or making and entering a decree enforcing, modifying, and enforcing as so modified or setting aside in whole or in part an order of the Board, as provided in this Section, the jurisdiction of courts sitting in equity shall not be limited by the Act entitled "An Act to amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes," approved March 23, 1932 (U.S.C., Supp. VII, title 29, secs. 101-115).

(i) Petitions filed under this Act shall be heard expeditiously, and if possible within ten days after they have been docketed.

Section 12. Any person who shall willfully resist, prevent, impede, or interfere with any member of the Board or any of its agents or agencies in the performance of duties pursuant to this Act shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than one year, or both.

Section 13. Nothing in this Act shall be construed so as to interfere with or impede or diminish in any way the right to strike.

RULES AND REGULATIONS of NATIONAL LABOR RELATIONS BOARD

Series 2, As Amended
Effective March 13, 1940

ARTICLE II.

Section 5. After a charge has been filed, if it appears to the Regional Director that formal proceedings in respect thereto should be instituted, he shall issue and cause to be served upon the respondent and the person or labor organization making the charge (hereinafter referred to as the "parties") a formal complaint in the name of the Board stating the charges and containing a notice of hearing before a

Trial Examiner at a place therein fixed and at a time not less than ten days after the service of the complaint. A copy of the charge upon which the complaint is based shall be attached to the complaint. . . .

Sec. 7. Any such complaint may be amended upon such terms as may be deemed just; prior to the hearing, by the Regional Director issuing the complaint; at the hearing and until the case has been transferred to the Board pursuant to Section 32 of this Article, upon motion, by the Trial Examiner designated to conduct the hearing; and after the case has been transferred to the Board pursuant to Section 32 of this Article at any time prior to the issuance of an order based thereon, by the Board.

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Sec. 10. The respondent shall have the right, within ten days from the service of the complaint, to file an answer thereto. Such answer shall contain a short and simple statement of the facts which constitute the grounds of defense. The respondent shall specifically admit or deny or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. Any allegation in the complaint not specifically denied in the answer, unless the respondent shall state in the answer that the respondent is without knowledge, shall be deemed to be admitted to be true and may be so found by the Board.

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Sec. 13. The respondent may amend his answer at any time prior to the hearing. During the hearing or subsequent thereto, he may amend his answer in any case where the complaint has been amended, within such period as may be fixed by the Trial Examiner or the Board. Whether or not the complaint has been amended, the answer may, in the discretion of the Trial Examiner or the Board, upon

motion, be amended upon such terms and within such periods as may be fixed by the Trial Examiner or the Board.

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Sec. 24. It shall be the duty of the Trial Examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice affecting commerce as set forth in the complaint or amended complaint. Counsel for the Board, and the Trial Examiner, shall have power to call, examine, and cross examine witnesses and to introduce into the record documentary or other evidence.

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ARTICLE III.

PROCEDURE UNDER SECTION 9(c) OF THE ACT FOR THE INVESTIGATION AND CERTIFICATION OF REPRESENTATIVES

Sec. 2. (a) Such petition, when filed by an employee or any person or labor organization acting on behalf of employees, shall contain the following:

- (1) The name and address of the petitioner.
- (2) The name and address of the employer or employers involved, the general nature of their businesses, and the approximate number of their employees.
- (3) A description of the bargaining unit which petitioner claims is appropriate and the approximate number of employees in such unit.
- (4) The number or percentage of employees in such unit who have designated or selected petitioner to be their representative for collective bargaining.
- (5) The names of any other known individuals or labor organizations which claim to represent any of the employees in the alleged bargaining unit.

APPENDIX—2

NAMES	Written Revocation of Union	Written Designation of Big Creek (Record pp.)	Joined and Designated Big Creek by Stipulation of Parties (R. 2126-7)	Testified on Hearing Did Not Want Union	Worked During Strike
Adams	3037	3037	2128	2153	2106
Anderson, A.				2328	2106
Baker	3038	3038	2128	2211	2107
Barnes	2184	2184	2128	2181	2107
Bathwell	3038	3038	2128	2205	2107
Baumann	3038	3038	2128	2249	2107
Bean	3039	3039	2128	2777	2107
Bedard	3038	3038	2128	2323	2107
Berg	3038	3038	2129	2287	2107
Bisson	3039	3019-22		2266	2107
Botzon	2031	2031	2129	2026	2108
Box	3038	3038			2107
Boyd	3038	3038	2128	2220	2107
Bradshaw	3038	3038	2128	2258	2107
Caballero			{ 2129 { 2227		
Carlson	3038	3038	2130	2276	2108
Chaney			{ 3025 { 3031		
Clark, Oscar	3038	3038	2129		2108
Clarke, C. C.	3038	3038	2129	{ 2188 { 2194	2108
Cochrane	1997	1997	2129	1990	2108
Connelly					2108
Conner			{ 2129 { 2227		2108
Cook, H.		3019-22		2251	2108
Cook, R.					2108
Crawford			{ 2129 { 2227	2274	2109
Cunningham	3038	3038	2130	2269	2109

NAMES	Written Revocation of Union	Written Designation of Big Creek (Record pp.)	Joined and Designated Big Creek by Stipulation of Parties (R. 2126-7)	Testified on Hearing Did Not Want Union	Worked During Strike
D'Andrea	3038	3038	2130	2170	2109
Davis	3038	3038	2130	2424	2109
Day, T. A.	3038	3038	2130	2196-7	2109
Day, W.			2130	2619	2109
Demers	3038	3038	2130	2179	2109
Destifano	3038	3038	2130		2109
Dickens	3038	3038	2130		2109
Enama	3038	3038	2131	2241	2109
Evans			{2131 2229		2109
Fagan, M.	3038	3038	2131	2279	2109
Fagan, T.	3038	3038	2131		2109
Faraca	3038	3038	2131	2200	2109
Forney			2131	2334	2110
Franklin			{2131 2229	2476	
Fuller	3038	3038	2131	2391	2110
Gillespie	3038	3038	2131	2553	2110
Goggin	3038	3038	2131		2110
Haxton	3038	3038		2472	2110
Hayes					2111
Held			2131	2420	2111
Houglan	3038	3038	2132	2785	2111
Howell, J.	3038	3038	2132	2294-5	2111
Howell, R.			2132	2436	2111
Jessen, L.	3038	3038	2132	2368	2111
Kirk			{2132 2230		
Knowlan	3038	3038	2133		2112
Kranches					2112
Kulm	3038	3038	2133	1886	2112

NAMES	Written Revocation of Union	Written Designation of Big Creek (Record pp.)	Joined and Designated Big Creek by Stipulation of Parties (R. 2126-7)	Testified on Hearing Did Not Want Union	Worked During Strike
Lamm	3038	3038	2133	2305	2112
Larson, A. N.	3038	3038	2133	2256	2112
Lasher	3038	3038	2133		
Livermore	3038	3038		2527	2112
Loftis, A.	3038	3038	2133		2112
Lundy	3038	3038	2133	2696	2112
MacCrimmon	3038	3038	2134	2366	2113
McKenzie	3038	3038	2134	2427	2113
McKimney	3038	3038	2134	2158	2113
Maddox	3038	3038	2133	2353	2112
Mara	3038	3038	2134	2238	2112
May	3038	3038	2133	2483	2113
Milionis	3038	3038		2352	2113
Nickelby			{ 2134 2232		
Patrick	3038	3038	2135	2509	2114
Peck			2134	2662	2114
Pedersen, A.	3039	3039	2134	2546	2114
Pedersen, P.	3039	3039	2134		2114
Poelke	3039	3039	2134	2702	2114
Portwood	3039	3039	2135		2114
Price	3038	3038	2135	2579	2114
Richings			2135		2114
Rizzonelli, E.			{ 2134 2233		
Rudy	3039	3039	2135	2675	2114
Sagdal	2172	2172	2135	2042	2115
Sanders			{ 2135 2233		
Scheffel	3039	3039	2136		2115
Seaman	3039	3039	2135		2115
Solonen	3039	3039		2654	2115

NAMES	Written Revocation of Union	Written Designation of Big Creek (Record pp.)	Joined and Designated Big Creek by Stipulation of Parties (R. 2126-7)	Testified on Hearing Did Not Want Union	Worked During Strike
Stayner			{ 2135 } 2233		
Stensaas	3039	3039	2136	2515	2115
Stokes	3039	3039	2136	2479	2116
Stone	3039	3039	2136		2116
Terrill, M. H.	3039	3039		2679	2116
Tylen				2625	2116
Vanhouten			2137	{ 2711 } 2717-8	2116
Vickerman				2649	
White	3039	3039	2137	2597	2116
Widmer	3039	3039	2137	2592	2116
Wold	3039	3039	2137	2794	2116
Wruble	3039	3039	2137		2117
Wyatt	3039	3039	2137	2151	2117
Zarse			{ 2137 } 2235		

